

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on March 15, 2010, and the references cited therewith.

Claims 40 and 42 are amended, no claims are canceled, and claim 59 is added; as a result, claims 1-30, 40, 42, and 59 are now pending in this application.

Applicant respectfully submits that claim 59 does not introduce any new subject matter and is intended to cover additional claimable subject matter fully supported by the originally filed specification. Claim 59 was previously presented as claim 41.

Examiner Interview Summary

Applicant thanks Examiner Severson for participating in a telephone interview on March 2, 2010. During the interview, Applicant and the Examiner discussed priority of the present case and proposed claim amendments to independent claim 40. Applicant also thanks Examiner Severson for his helpful suggestions regarding subject matter that could overcome one or more of the cited references. Applicant also thanks Examiner Severson for making the present Office Action Non-Final. Although no specific agreement was reached with regard to allowability, Applicant believes the present claims are in patentable order.

Reissue Applications

The reissue oath/declaration filed with this application was reported as being defective according to the Office Action dated March 15, 2010 (see 37 CFR 1.175 and MPEP §1414) because of the following:

The declaration filed 2/9/2009 identifies that the error in claim 1 to be corrected is the claim requires a trunk liner having both an upper and lower cylindrical body portion with two leg portions, whereas the claim should recite only one cylindrical body portion and two leg portions. Claim 40 now recites first and second cylindrical body portions, which are analogous to the upper and lower cylindrical body portions of claim 1. Therefore, claim 40 is no longer

correcting the error set forth in the declaration with regard to claim 1. Since the outstanding amendment no longer corrects the identified errors with respect to claims 1 and 25, the application cannot be allowed under 35 USC 251.

Claims 1-30, 40 and 42 were rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above.

In response, Applicant has amended independent claim 40 to remove the previously added limitation:

wherein said trunk component includes a second generally cylindrical body portion located on an opposite side of said two leg portions from said generally cylindrical body portion.

As such, Applicant respectfully submits that the reissue declaration is no longer defective and respectfully requests reconsideration and withdrawal of the rejection of claims 1-30, 40, and 42 based on the declaration.

§103 Rejection of the Claims

Claims 40 and 42 were previously rejected under 35 USC § 103(a) as being unpatentable over Rhodes (U.S. Patent No. 5,122,154) in view of Herweck, et al. (U.S. Patent No. 5,197,976) and Lunn (U.S. Patent No. 5,476,506) according to the Office Action dated November 9, 2009. Because Applicant's amendment indicated above (removing subject matter related to "a second generally cylindrical body portion") positions the claims in the same condition as they were on the date of the November 9, 2009 Office Action, Applicant has prepared additional amendments and responses to the § 103 rejections contained in that Office Action. Applicant respectfully traverses the rejection as follows.

For ease of review, Applicant includes here, a copy of claims 40 and 42, as amended from the previous presentation.

40. (Pending) A multi-component bifurcating expandable supportive endoluminal graft comprising:
a plurality of expandable supportive endoluminal components adapted to be individually deployed at a selected location within a body vessel, each said supportive endoluminal graft component being

radially compressible for endoluminal insertion and radially expandable for deployment at a desired location within a body vessel;

one of said expandable supportive endoluminal components is a trunk component, said trunk component generally surrounding a trunk liner positioned within said trunk component, said trunk liner having a generally cylindrical body portion and two leg portions, each said leg portion defining a leg opening, wherein the generally cylindrical body portion of said liner and portions of said leg portions abut said trunk component and are secured to said trunk component, and portions of said leg portions not abutting said trunk component abut one another and are secured to one another along their entire length, and ~~wherein said trunk component includes a second generally cylindrical body portion located on an opposite side of said two leg portions from said generally cylindrical body portion;~~

at least one other of said expandable supportive endoluminal components is a generally cylindrical supportive leg component; said generally cylindrical supportive leg component and one of said leg portions of said liner, when said leg component and trunk component have been fully deployed within the body vessel, are not connected to and are telescopically slidable with respect to each other; and

said generally cylindrical supportive leg component has a first end portion that, when deployed, is positioned within said leg opening of the trunk liner, and a second end portion external to said one of said leg portions and proximal to the body vessel.

42. (Pending) The supportive endoluminal graft of claim 40 ~~or claim 44~~, wherein said plurality of expandable supportive endoluminal components are self-expanding.

Support for the amendments can be found throughout Applicant's originally filed specification and drawings, and in particular at column 12, line 44 -- column 13, line 6; column 15, lines 9-22; and in Figures 21 and 31-32 of Patent 5,855,598.

The Rhodes reference appears to teach an endovascular graft 20 including an elongated tubular member or sleeve 28 having a plurality of expandable, ring-like, stent members or sections 30 located at equidistantly spaced positions along the longitudinal length of the member. (Col. 5, ln. 60-66). The Lunn reference appears to describe a bi-directional crimped graft. (Title).

The Herweck reference was cited (page 2 of the Office Action dated November 9, 2009) as teaching “making a graft component with a cylindrical body portion and two abutting leg portions (as in figure 1) to allow the graft component to feed both branches of a bifurcated vessel.” However, from Applicant’s review, the Herweck reference appears to teach “a bilumenal separable vascular prosthesis with a cap at one end.” (Col. 3, ln. 18-19; Figure 1A). Herweck also appears to teach that the tube structures “can optionally include a built-in stop-gap 18, which prevents a user from dividing the tube structures beyond the point of structural integrity.” (Col. 6, ln. 47-49; Figure 1A). Figure 2 of Herweck also appears to illustrate two separable tube structures 10, 10’. (Col. 6, ln. 53-55; Figure 2). However, the embodiment illustrated in Figure 2 does not include a portion that could read on Applicant’s claimed “cylindrical body portion”.

In addition, from the Applicant’s review, the Rhodes, Herweck, and Lunn references do not describe, teach, or suggest:

one of said expandable supportive endoluminal components is a trunk component, said trunk component generally surrounding a trunk liner positioned within said trunk component, said trunk liner having a generally cylindrical body portion and two leg portions, each said leg portion defining a leg opening, wherein the generally cylindrical body portion of said liner and portions of said leg portions abut said trunk component and are secured to said trunk component, and portions of said leg portions not abutting said trunk component abut one another and are secured to one another along their entire length;

as recited in Applicant’s claim 40, as amended.

Applicant amended dependent claim 42 to remove a multiple dependency. In a previous response, Applicant canceled dependent claim 41 and incorporated the subject matter into independent claim 40. In the present response, applicant has removed said subject matter from independent claim 40 and added it to new dependent claim 59, which mirrors the previously canceled dependent claim 41.

Therefore, the cited references do not describe, teach or suggest each and every element of independent claim 40, as amended. Accordingly, Applicant

respectfully requests reconsideration and withdrawal of the § 103 rejection of independent claim 40 as amended, as well as for claim 42, which depends therefrom.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0132 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 15th day of June, 2010.

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